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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,982	06/15/2005	Yanxin Li	LUNGBJ/107/PC/US	7513

2543 7590 11/02/2006

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EXAMINER

BASICHAS, ALFRED

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/538,982

Applicant(s)

LI, YANXIN

Examiner

Alfred Basichas

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/15/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on October 4, 2006. Applicant further asserts that search and examination of the two inventions would not constitute a serious burden. The examiner disagrees. Applicant further states that the examiner has failed to make a showing of undue burden. Nevertheless, contrary to applicant's assertion, the examiner has indeed shown that such is the case. Applicant's attention is directed to the restriction requirement, which specifically sets out the reasoning behind the requirement. This showing is sufficient to shift the burden onto applicant to rebut the presumption established thereby. Accordingly, as applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 16 and 18-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 16 the phrase "etc" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "etc"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Graat (4,334,854), which shows all of the claimed limitations including, among other things,

15. An autocontrol burner 101 includes a main body, a fuel supplying means, an air blowing means 103, a fuel oil atomizing means 4 and a igniter, wherein it further includes a controller, a motor 104 speed controller and a signal acquisition assembly, in which the fuel supplying means and the air blowing means are connected with the controller via the motor speed controller, the signal output port of the signal acquisition assembly is connected with the signal input port of the controller, flow rate of fuel oil output by the fuel supplying means and flow rate of air blown by the air blowing means are adjusted automatically, simultaneously and proportionally by said controller based on preset air/oil ratio (see at least col. 10, lines 37-45).

17. The autocontrol burner according to claim 15, wherein said controller is a programmable controller (inherently at least at assembly or start up), or an industrial control unit (inherently utilized in industrial units, also the term industrial is read broadly).

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7. Claims 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kishida (5,049,063), which shows all of the claimed limitations including, among other things,

15. An autocontrol burner 2 includes a main body, a fuel supplying means 12, an air blowing means 44, a fuel oil atomizing means and a igniter, wherein it further includes a controller 8,16, a motor 43 speed controller and a signal acquisition assembly, in which the fuel supplying means and the air blowing means are connected with the controller via the motor speed controller, the signal output port of the signal acquisition assembly is connected with the signal input port of the controller, flow rate of fuel oil output by the fuel supplying means and flow rate of air blown by the air blowing means are adjusted automatically, simultaneously and proportionally by said controller based on preset air/oil ratio (see at least col. 5, lines 35-54).

17. The autocontrol burner according to claim 15, wherein said controller is a programmable controller (inherently at least at assembly or start up), or an industrial control unit (inherently utilized in industrial units, also the term industrial is read broadly).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

October 16, 2006


Alfred Basichas
Primary Examiner